IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO. 2781 OF 2005

Uttareshwar @ Rajaram Bhagwan Gund .. Peitioner
Vs.
The State of Maharashtra and anr. .. Respondents

Mrs. A.S. Pai, APP for Respondents.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.
Date : February 16, 2006.

P.C.:

1. This petition has been sent through Jail by a convict by name Uttareshwar @ Rajaram Bhagwan Gund and he was an undertrial prisoner from 9/6/2001. He came to be convicted and sentenced by the learned Sessions Judge for an offence punishable under Section 302 of IPC vide the order dated 11/1/2002. It is not known whether he has filed an appeal against the said order. Nonetheless, it appears that he made an application for furlough leave and the DIG (Prisons) Western Region rejected the said application by his order dated 21/6/2005 on the basis of adverse police report.

2. Mrs. Pai, the learned APP, has received the record and she read out the police report which indicates that the family members of the deceased victim who reside in the same village as that of the petitioner have a strong apprehension that the

petitioner may indulge in fresh criminal activities in retaliation and, therefore, in their statements they had opposed the leave.

3. We have noted that the petitioner has been in custody right from 9/6/2001 and it appears that furlough leave was not granted to him earlier. The application was rejected only on the basis of the adverse police report which was mainly based on the statements of the family members of the deceased victim. It would be, therefore, appropriate that the competent authority considers the furlough leave application afresh in case the petitioner submits an undertaking that he will not enter village Angar and if such an undertaking is submitted within a period of four weeks from today, we direct the competent authority to consider the furlough leave application afresh by imposing such conditions, including not to enter the village concerned and the decision be communicated to the petitioner within three weeks from the receipt of the undertaking.

4. Petition stands disposed off accordingly. Copy of the order be forwarded to the petitioner forthwith.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**